

Officer Involved Shooting of Kenny Walker

Los Angeles Police Department

Officer Jonathan Vander Lee, #38606

J.S.I.D. File #14-0138



JACKIE LACEY

District Attorney

Justice System Integrity Division

February 1, 2016

MEMORANDUM

TO: COMMANDER ROBERT LOPEZ
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

RE: Officer Involved Shooting of Kenny Walker
J.S.I.D. File #14-0138
F.I.D. File #F008-14

DATE: February 1, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 6, 2014, fatal shooting of Kenny Walker by Los Angeles Police Department (LAPD) Officer Jonathan Vander Lee. It is our conclusion that Officer Vander Lee acted in lawful self-defense and defense of others at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on March 6, 2014, at 5:15 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant Brian Gilman.

The following analysis is based on reports submitted to our office by the LAPD Force Investigation Division (FID). No compelled statements, if any exist, were considered in this analysis.

FACTUAL ANALYSIS

On March 6, 2014, a series of shootings occurred between two rival gangs, the Hoover Gangster Criminals and the Main Street Crips, in the LAPD Southeast and 77th Street areas. At approximately 10:30 a.m., one of those shootings resulted in a murder. LAPD Officers Jonathon Vander Lee and Freddie Lilomaiava were briefed on this matter and instructed to conduct patrol in these areas to prevent any retaliatory shootings.

Statement of Officer Freddie Lilomaiava

At approximately 6:45 p.m., Vander Lee and Lilomaiava were patrolling the area of Colden Avenue and Main Street, a location where Main Street Crip gang members are known to congregate. The officers drove past an individual later identified as Kenny Walker. Walker looked towards the police vehicle and immediately turned north, in the direction of an alley. The

officers stopped the vehicle and observed Walker look back at them, which made them suspicious of his actions. They began to follow him.

Although they had no intention of stopping Walker, from inside the patrol car, Lilomaiava asked, “What’s up? What’s going on? What are you up to today?” Walker turned to face the officers, took two steps towards them, and gestured by raising both his hands to his chest level. Lilomaiava interpreted that this was Walker’s way of asking what was happening, so he asked Walker what he was “up to.”

Walker lifted his shirt with his left hand and turned clockwise away from the officers. Lilomaiava saw Walker’s right hand at his waistband gripping the butt of a gun and alerted Vander Lee that Walker was armed. Vander Lee and Lilomaiava immediately exited the patrol vehicle. While exiting the vehicle, Lilomaiava unholstered his weapon to a two-hand low ready position. Both he and Vander Lee yelled, “Hey, Don’t do it! Don’t do it!” Lilomaiava sought cover at the southwest corner of an apartment building at 9621 South San Pedro Street, while Vander Lee positioned himself next to an iron fence inside the rear south side of the property.

In spite of the officers’ repeated commands, Walker removed a pistol from his right front waistband while turning left in a counterclockwise direction towards them. As the barrel of the gun cleared Walker’s waistband, Lilomaiava raised his weapon preparing to shoot. Before he could fire, Vander Lee fired multiple rounds from his duty weapon, striking Walker until he fell to the ground and dropped his weapon.¹ Walker’s firearm was found on the pavement near him.²

Civilian Witnesses

Francine Taylor stated that she was braiding the hair of a friend inside the residence of [REDACTED] when she heard five to six gunshots. Taylor subsequently ran outside and saw Walker lying face down with a gun in close proximity on the ground. She observed the officers in the alley by their police vehicle.

Laquisha Conner stated that she was in her bedroom at [REDACTED] when she heard cursing outside her window facing the alley. She observed two officers outside their car pointing their guns in an easterly direction and saw one officer fire at a target, which was out of her view, about two or three times. She then saw a man lying on the ground with a cell phone nearby, but no gun.

Ronisha Armstrong stated that she ran to her kitchen window at [REDACTED] when she heard someone scream for help followed by five to six gunshots. She observed a man gasping for air on the ground and two officers with their guns drawn. She observed a cell phone by the man’s body and after exiting the residence, saw a handgun near the man approximately one foot away from him.

¹ Vander Lee was armed with his department-authorized Glock .45 caliber Model 21 semiautomatic pistol. A physical inspection of the pistol and magazines established that he fired six rounds.

² Walker was armed with a 9mm Hi-Point, Model C9, semiautomatic pistol. Upon inspection, the pistol was found to contain one live round in the chamber and seven additional cartridges in the magazine that was inserted into the weapon. The firearm had been reported stolen from San Bernardino in 2008. DNA samples obtained from the firearm were analyzed and found to be consistent with Walker’s DNA profile.

Autopsy Report

On March 12, 2014, Los Angeles County Department of Coroner Deputy Medical Examiner Doctor Louis Pena performed a post-mortem examination of Walker's body. Doctor Pena ascribed the cause of death to a gunshot wound to his abdomen and two potentially life threatening gunshot wounds to his lower left leg and left arm.³ Walker sustained two other non-fatal gunshot wounds to his right back and penis.

The Coroner's Forensic Toxicology Laboratory completed a screen of Walker's blood and did not detect the presence of narcotics or alcohol.

LEGAL ANALYSIS

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. If the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

The evidence examined in this investigation shows that Officers Vander Lee and Lilomaiava, while still seated in their patrol vehicle, attempted to contact Kenny Walker and asked him what he was doing. The officers knew that shootings had occurred in the area and at least one person had been killed. Although Walker's demeanor upon observing the officers raised some suspicion, the officers did not intend to detain him at that time. However, rather than responding to the officers, Walker escalated the encounter by reaching into his waistband and displaying a weapon. The officers gave several commands of, "Hey, Don't do it! Don't do it!" but Walker continued to remove the gun from his waistband while turning in the direction of the officers. Thus, the officers had reason to believe that their lives were in danger. In response to this deadly threat, Vander Lee fired his weapon, killing Walker.

CONCLUSION

Based on the foregoing, we conclude that Officers Jonathon Vander Lee and Freddie Lilomaiava were placed in reasonable fear of imminent danger of death or great bodily injury to themselves. Officer Vander Lee acted lawfully in self-defense and defense of others when he used deadly

³ The direction of the gunshot wound to Walker's abdomen was front to back, right to left and downward. The gunshot wound to his lower left leg was left to right and upward. The gunshot wound to his left arm was back to front, left to right and upward.

force against Kenny Walker. We are therefore closing our file and will take no further action in this matter.